



DELAINE EASTIN

State Superintendent of Public Instruction

REVISED – July 9, 1999

Changes are technical, with additional information on page 11, “Facilities”

January 15, 1999

Dear: County and District Superintendents of Schools
County and District Chief Business Officials
Alternative Education Directors
Community Day School Administrators

RE: Update on Community Day Schools

Assembly Bill 922 (Chapter 974, Statutes of 1995) provided for Community Day Schools as an educational placement option for expelled and other at-risk students (*Education Code* sections 48660-48666). Subsequent key amendments were enacted by AB 2834 (Chapter 937) in the 1996 session. During the last legislative session the laws governing Community Day Schools were further amended by AB 1845 (Chapter 847, Statutes of 1998).

This letter summarizes the changes made by AB 1845. It also summarizes other key sections of law related to Community Day Schools that remain unchanged and presents several issues to be considered by districts that are interested in establishing one or more Community Day Schools.

For other information about Community Day Schools, please contact Dan Sackheim, Consultant, in the Educational Options Office by calling (916) 445-5595, or by sending e-mail to “dsackhei@cde.ca.gov”. You can also find information about Community Day Schools on the Educational Options Office Home Page at <http://www.cde.ca.gov/spbranch/essdiv/edoptshome.html>.

Establishment of a Community Day School

Existing law authorizes the governing board of a school district to establish one or more Community Day Schools (*Education Code* section 48660). AB 1845 provides that county offices of education may be considered to be school districts for purposes of establishing and operating Community Day Schools.

A district establishing a Community Day School should apply for a County-District-School (CDS) Code. Forms and information about this process can be obtained from the CDS Coordinator, California Department of Education, Information Systems and Services, by calling (916) 327-4014, or by sending e-mail to “afong@cde.ca.gov”.

Assignment of Students to a Community Day School

As amended by AB 1845, *Education Code* section 48662¹ provides that the only students who may be assigned to a Community Day School are those who have been:

- expelled for any reason;
- probation-referred pursuant to *Welfare and Institutions Code* sections 300 or 602; or
- referred to a Community Day School by a School Attendance Review Board (SARB) or other district level referral process. (AB 1845 amended the law to provide increased flexibility to districts in assigning students to Community Day Schools by allowing the use of “other” district level referral processes, whether or not the district operates a SARB (§48662 (b) (3)).

Section 48662 (b) (4) further specifies that, unless there is an agreement that the county superintendent of schools shall serve any of these categories of students, assignment of students to Community Day Schools shall be made in the following **priority order**:

1. students expelled for mandatory expulsion offenses (§48915 (d));
2. students expelled for any other reasons; and
3. all other students.

Districts that establish Community Day Schools must adopt policies that provide procedures for the involuntary transfer of students to those schools (§48662). Such policies necessarily have to provide for appropriate “due process.”

Education Code section 48916.1 (a) provides that, at the time an expulsion of a student is ordered, the governing board of the school district shall ensure that an education program is provided to the student for the period of the expulsion. Community Day Schools were created to provide districts with an educational placement option for expelled students who previously could not be served within the district (those students expelled for any of the offenses listed in subdivision (a) or (c) of (§48915).

The California Department of Education strongly encourages school districts to establish and operate schools and programs, including Community Day Schools, that provide appropriate services to those students who have histories of negative behavior. Doing so allows greater continuity with both previous and subsequent educational placements.

¹ Unless otherwise specified, all code references in this memorandum come from the California *Education Code*.

Program Components

Students served in Community Day Schools are often a challenge to school administrators and teachers. Many of these children and youth exhibit an array of behavior problems and need intensive assistance in their psychological, social, and academic development. Some of them may have learning disabilities, either diagnosed or undiagnosed, that require specific learning strategies. Some may be gifted.

The legislative intent (§48660.1) is that school districts operating Community Day Schools should, to the extent possible, include the following program components:

- low student-teacher ratio;
- individualized instruction and assessment;
- maximum collaboration with school district support service providers, including, but not limited to, school counselors and psychologists, academic counselors, and student discipline personnel; and
- school district cooperation with the county office of education, law enforcement, probation, and human services agencies personnel who work with at-risk youth.

Minimum School day

The minimum school day for Community Day Schools is 360 minutes of instructional time (§48663 (a)). There is no option for a shorter day. Administrators should be aware of three key points:

- The minimum day requirement applies to **every student** enrolled in the Community Day School unless otherwise specified in a Special Education Individualized Education Program (see below).
- The minimum day requirement applies to **every school day**.
- Since **breaks, recess, and lunch** are not instructional time, they **do not count** toward the minimum day.

Minimum Instructional Day Must be Within the Community Day School

AB 922 provided that “the minimum school day **for pupils enrolled in Community Day Schools** is 360 minutes of classroom instruction ...” (§48663 (a), emphasis added). This language could have been interpreted as stating the minimum length of day for a student enrolled in a Community Day School, but not where that day had to be spent.

AB 1845 has amended this provision to read that “the minimum school day **in a Community Day School** is 360 minutes of classroom instruction...” (emphasis added). The new language clarifies that the entire minimum school day must be provided within the Community Day School.

Minimum Instructional Day Provided by a Certificated District Employee

AB 922 provided that “the minimum school day for pupils enrolled in Community Day Schools is 360 minutes of classroom instruction **provided by a certificated employee of the district or of a consortium of school districts**” (§48663 (a), emphasis added). AB 1845 amended this provision to read that “the minimum school day in a Community Day School is 360 minutes of classroom instruction **provided by a certificated employee of the district reporting the attendance of the pupils for apportionment funding**” (emphasis added). This revision means instruction for the minimum school day is to be provided by (that is, under the immediate supervision and control of, per (§46300 (a)) **a certificated employee of the district**. A district cannot “contract out” this role.

AB 1845 also eliminated the phrase “a consortium of school districts” from Section 48663 (a). This legislative change will require some districts to revise their current operations. For example, several districts have been operating Community Day Schools in consortia with neighboring districts. In some cases, a single district has operated a Community Day School with some of the students coming from partner districts. In other cases, two or more districts have operated Community Day Schools at a common site, with each serving students from other districts as well as their own within a specified grade span. Under AB 1845, the certificated employee in the classroom and the student must be from the same district. This requirement may necessitate interdistrict transfers for some students while they are enrolled in a Community Day School.

Minimum Day for Students with Exceptional Needs

Consistent with the provisions of Section 46307, if a student with exceptional needs enrolls in a Community Day School and has an Individualized Education Program (IEP) that specifies a school day for the student of less than six hours, the day-length specified in the student’s IEP shall also be the student’s “minimum day” for purposes of calculating the student’s ADA for basic funding—but **not** for purpose of claiming the supplemental funding described below. To generate credit for the supplemental funding, a student with exceptional needs must attend the same amount of time as any other student enrolled in a Community Day School.

No Instruction through the Independent Study Strategy

Independent study may not be utilized as a means of providing any part of the minimum instructional day in a Community Day School (*EC* §48663 (d)).

Funding

Funding for Community Day Schools is based on actual attendance and supports a minimum day and extended program offerings.

Basic Funding for Community Day Schools

Section 48663 (a) provides that the minimum school day in Community Day Schools is 360 minutes of instructional time. Accordingly, if a district requires a student to attend a Community Day School for at least 360 minutes of instructional time per day and on any given school day the student does attend the Community Day School for any part of that required day, the student generates one day of attendance credit for the school district. There is no cap on the number of students who may be counted for basic funding.

AB 1845 adds the provision that, in the case of a Community Day School operated by a county office of education, the State Superintendent of Public Instruction shall use the statewide average juvenile court school revenue limit for basic funding per unit of ADA (§48667 (b)).

Supplemental Funding for Community Day Schools

The Legislature has provided supplemental funding for Community Day Schools to offset costs of operating a longer instructional day and to provide support services for students. AB 1845 significantly increased the supplemental apportionment for the required school day for school districts operating Community Day Schools, from \$1,500 per ADA to \$4,187 per ADA (\$4,000 per ADA as provided by (§48664 (a), plus per ADA pursuant to (§48664 (g))². AB 1845 also provides that the supplemental apportionment for county-operated Community Day Schools will be \$3,178 per ADA (\$3,000 plus an additional \$178 pursuant to §48664 (g)).

Effective Date of Funding Increase

AB 1845 provides that the supplemental funding is to be paid “at the annual apportionment,” (§48664 (a)) which comprises the period July 1 through June 30. Therefore, even though AB 1845 has an operative date of January 1, 1999, the increase applies to attendance in Community Day Schools beginning July 1, 1998.

Calculation of Supplemental Funding for Community Day Schools

Education Code section 48663 (c) provides that, for the purpose of calculating the supplemental funding provided pursuant to Section 48664 only, Community Day School attendance shall be reported in clock hours for each day. When a student’s requirement is to attend a specific period of 60 minutes in Community Day School and the student in fact attends for at least some part of that period, the student thereby generates one clock hour of attendance for that school day. Section 48663 (c) further provides that:

² SB 727 (Chapter 855, Statutes of 1997) eliminated funding for excused absences from revenue limit calculations, including calculations of supplemental funding for Community Day Schools. To compensate for the revenues that will no longer be paid for excused absences, SB 1468 (Chapter 846, Statutes of 1998) provided for a corresponding increase in the ADA-based funding amounts, based on the prior rate of excused absences. AB 1845 provided for the application of the statewide average of the funding adjustments in SB 1468 to the new funding rates for Community Day Schools.

- attendance of less than five clock hours in a school day shall generate no attendance credit for the additional funding;
- attendance of five clock hours of the required school day shall generate one-half day of attendance credit for the additional funding; and
- attendance of six or more clock hours of the required school day shall generate one whole day of attendance credit for the additional funding.

It is important to remember that the minimum required school day at a Community Day School is a full 360 minutes of instruction. While absences may reduce funding, there is no option for a planned shorter day.

Limitation on Supplemental Funding for School Districts

School districts that operate Community Day Schools may receive basic funding for every appropriately enrolled student. There are, however, caps on the supplemental apportionments that will be paid for the required school day.

AB 1845 did **not** change the rules governing caps on supplemental apportionments for school districts, and therefore, the rules remain as follows:

1. Supplemental apportionments for the attendance of mandatorily expelled (§48915 (d)) in a Community Day School are not subject to a cap (§48664 (a) (2)). A “continuous appropriation” provision (§48664 (f)) assures that all such claims will be fully funded.
2. Attendance claims for the \$4,187 supplemental funding for all other Community Day School students are subject to a “cap” or limit as follows (§48664 (a)):
 - 0.375 percent of the district’s prior year P2 ADA in an elementary school district;
 - 0.5 percent of the district’s prior year P2 ADA in a unified school district; and
 - 0.625 percent of the district’s prior year P2 ADA in a high school district.
3. Section 48664 provides that the State Superintendent of Public Instruction may annually reallocate among districts any unexpended balance of the total state appropriations for Community Day Schools. This reallocation of funds is allowed for up to 50 percent more ADA than permitted by each district’s cap.

Limitation on Supplemental Funding for County Offices of Education

County offices of education that operate Community Day Schools are eligible to receive **basic** funding for the attendance of all students appropriately enrolled in their Community Day Schools. There is, however, a cap on the \$3,178 per ADA **supplemental** apportionments for county Community Day Schools.

AB 1845 limits the ADA for the \$3,178 supplemental funding for the unused units of ADA of Community Day Schools operated by the school districts within the jurisdiction of that county office of education (§48664 (a)). The key points of this cap are as follows³:

- The cap is based on the attendance of students in Community Day Schools operated by local school districts in the county during the **current** school year. Since actual ADA cannot be known until after the school year is concluded, county offices of education will need to communicate with local districts in order to estimate how much ADA will be left over.
- A local school district's ADA for mandatorily expelled students enrolled in its Community Day School **does not count** against that district's funding cap. It is the attendance of all other students in the district's Community Day School that determines how much (if any) of that district's cap is unused and therefore available to the county office of education.
- The cap is based on the unused ADA of Community Day Schools **operated** by the local school districts. As AB 1845 was written, a county office of education may **not** claim supplemental funding based on the unused potential caps of school districts within its jurisdiction that do **not** operate Community Day Schools.

The following illustration may clarify how the cap for supplemental funding is computed for a county Community Day School:

- District "A" operates a Community Day School and has 3 units of ADA for students who were mandatorily expelled and 10 units of ADA for students who were appropriately assigned to the Community Day School for other reasons. District A's cap is 25 units of ADA. The ADA available from District A for supplemental funding for the county office education therefore would be 15 units of ADA.
- District "B" operates a Community Day School and has 8 units of ADA for students who were mandatorily expelled and 25 units of ADA for students who were appropriately assigned to the Community Day School for other reasons. District A's cap is 75 units of ADA. The ADA available from District A for supplemental funding for the county office education would be therefore 50 units of ADA.
- District "C" does not operate a Community Day School. Therefore, even though District C's cap is 45 units of ADA, no units of ADA from District C are available for supplemental funding for the county office of education.
- The county office of education operates a Community Day School and serves students from all of the districts within its jurisdiction, with a total ADA of 90.

³The author of AB 1845, Assemblymember Mike Honda, has indicated that he intends to introduce urgency legislation early in 1999 that would modify the limitations on supplemental funding for county offices of education that operate Community Day Schools.

- The county would receive **basic** funding for the attendance of every student appropriately enrolled in the Community Day School that it operates (regardless of whether or not the school district that referred the student operated a Community Day School). However, it would be eligible to receive **supplemental funding** for a total of only 65 units of ADA.

Supplemental Funding for Longer Supervised Day

Districts and county offices of education operating Community Day Schools are eligible to receive **supplemental funding** of \$4 per hour (AB 1845 increased this amount from \$1.50) for a longer supervised day beyond the 360 minute required instructional day, subject to the following guidelines:

- This funding is determined by multiplying \$4 by the total of the number of hours each school day (up to a maximum of two hours) that each student remains at the Community Day School following the completion of the full 360 minutes of instruction (§48664 (c)).
- The students must be under the supervision of an employee of the district/county office of education that reports the attendance for apportionment funding (AB 1845 added the provision regarding the entity reporting the attendance).
- The supervising employee may be an aide or other uncredentialed person, in contrast to the requirement that a certified employee must provide instruction for the required Community Day School day.

Note: In contrast to the cap on apportionments for the required school day, funding for the longer supervised day may be claimed for every student who completes the required school day **and** attends during the extended day, without any cap or limitation.

Small District Waivers

The Legislature recognized that smaller school districts may have difficulty operating Community Day Schools within the funding limitations provided in Section 48664 (a). To address this concern, Section 48664 (d) provides that districts with fewer than 2,501 ADA may apply to the State Superintendent of Public Instruction for a waiver of the Section 48664 (a) funding limitations in order to permit the operation of a Community Day School of “reasonably comparable quality” to those offered by larger districts. The amount of funding allocated, pursuant to such a waiver, is the amount provided for one teacher under the “necessary small school” funding formulas found in Section 42284 (based on a school year of 180 days, as described below). These waivers cover a single fiscal year and may be renewed.

Length of School Year and Funding

The *Education Code* does not specify a minimum or maximum number of days Community Day Schools may operate within a school year. Section 48664 (b) instead provides that the average daily attendance of a Community Day School is to be determined by dividing the total number of days of attendance in all full school months by a divisor of 70 in the first period of each fiscal (school) year, by a divisor of 135 in the second period of each fiscal year, and by a divisor of 180 at the annual attendance reporting time for each fiscal year.

Section 48666 permits school districts to establish Community Day School attendance policies that require students to attend school for up to seven days each week. Such requirements may be implemented when this action is taken as part of a directed program designed to provide the students with the skills and attitudes necessary for success when they return to a regular school environment. School districts also have the option of operating Community Day Schools longer than the districts' normal school year, including year-round.

ADA is usually calculated by dividing the total number of student days of attendance in a specified period of months by the number of days school was in session during those months. Specified "fixed divisors," which are substituted in ADA calculations for the number of days schools were in session, automatically increase funding credit proportionally for each additional day of instruction beyond the number in the divisor or, conversely, automatically reduce funding credit proportionally for each day by which the number of days of instruction is smaller than the divisor.

Fiscal Reporting

AB 1845 added Section 48660.2, which requires that districts spend at least 90 percent of all funds received "on behalf of pupils while enrolled in Community Day Schools" in allowable Community Day School expenditure categories. Funds received on behalf of Community Day School students include **basic** revenue limit funds, the **supplemental funding** for Community Day School students, **and any other (state) funds allocated exclusively on the basis of ADA or enrollment**. The Education Finance Division will determine the specific revenues to be included in this calculation. Questions regarding the revenue calculation should be directed to Marcia Davey, Manager, School Apportionments, in the Education Finance Division at (916) 322-5906.

For Local Education Agencies (LEAs) reporting in the standardized account code structure (SACS), allowable expenditures include the direct costs of the Community Day School program. LEAs must, however, maintain documentation for all noninstructional costs charged to the program. (Please refer to Part II of the *California School Accounting Manual*). For LEAs not reporting in SACS, allowable expenditures include direct instructional costs and documented support costs, as defined in Part I of the *California School Accounting Manual*, except that documented support costs may include the rents and leases, and the maintenance and operation costs of facilities used by Community Day Schools.

The School Business Services Division is developing forms for LEAs to report their Community Day School expenditures which, when approved by the State Board of Education, will be incorporated into the software used to report 1998-99 unaudited actual financial statements

(J-200/400/600 and SACS). Once the program expenditures are reported by LEAs, the allowable expenditures will be compared with Community Day School revenues. If program expenditures are less than 90 percent of the revenues received on behalf of Community Day School students, an LEA's next apportionment will be reduced by that same amount. Questions about this matter should be directed to the Office of Financial Accountability and Information Services at (916) 322-1770.

Grade Spans of Community Day Schools

Current law governing the educational placements of expelled students (§48916.1 (d)) prohibits the combining of educational programs for students expelled from any of kindergarten or grades 1-6, inclusive, with programs for students in any of grades 7-12. If a district wishes to establish a Community Day School that would combine students in any of kindergarten or grades 1-6 with any of grades 7-12 (e.g., a middle school), it must apply for a waiver from the State Board of Education. Application forms and information about the State Board waiver process can be obtained from the California Department of Education's Waiver Office by calling (916) 654-6853.

Location of School Site

Community Day Schools are intended to be **separate schools**, not merely separate programs within schools, and are further intended to be **located apart from other schools**. The principal reason for this separation is that students assigned to Community Day Schools may have histories of negative behaviors that threaten the safety of other students. *Education Code* section 48661 provides that a Community Day School may **not** be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school, **except**:

- when the governing board of a school district, maintaining kindergarten or any of grades 1 to 6, inclusive, certifies by a two-thirds vote of its membership that **no** satisfactory alternative facilities are available for a community day school in those grades;
- when the governing board of a school district, with 2,500 or fewer units of ADA reported for the most recent second principal apportionment and maintaining any of grades 7 to 12, inclusive, certifies by a two-thirds vote of its membership that **no** satisfactory alternative facilities are available for a community day school in those grades; or
- when the governing board of a school district, with more than 2,500 units of ADA reported for the most recent second principal apportionment, is granted a waiver by the State Board of Education to permit such location of a Community Day School serving any of grades 7 to 12, inclusive.

The findings justifying a local governing board's certification or request for a State Board waiver necessarily require a search of available facilities (see following section on Facilities). This search should encompass both district-owned properties and other locations. The foregoing governing board certifications are valid for not more than one school year, but may be renewed annually by two-thirds votes of the governing board following an updated search.

Consistent with the foregoing discussion, if a district establishes a Community Day School on the same site as another school, the district should make diligent efforts toward achieving maximum separation of the Community Day School under these circumstances.

Facilities

Section 17292.5 provides that the governing board of a school district that operates a program for expelled students shall do one or more of the following:

- Use available school facilities that conform to Field Act requirements;
- Apply for emergency portable classrooms; and
- Certify to the State Allocation Board that all reasonable efforts have been made to locate the program in facilities that conform to the Field Act, and then enter into a lease agreement for facilities for which a structural engineer has submitted a report stating that no substantial structural hazards exist.

Section 17285 specifies conditions for the lease of a commercial building for use as a school building.

The California Department of Education, School Facilities Planning Division has developed guidelines for site and facilities standards, including site size and classroom size. For more information, call (916) 322-2470.

Every three years, each school district must report to the State Allocation Board on the facilities utilized for the operation of these programs and efforts to place the programs in facilities that conform with the Field Act. Information about State Allocation Board reporting requirements can be obtained by calling the Department of General Services, Office of Public School Construction, Non-conforming Waivers, at (916) 323-0139.

Under provisions included in SB 50 (Chapter 407, Statutes of 1998, Greene), school districts and county offices of education may be eligible to apply to the Office of Public School Construction (OPSC) for funds for the acquisition of land and construction of new facilities for Community Day Schools. Information about these funds can be obtained by calling the Department of General Services, Office of Public School Construction, New School Facility Program, at (916) 445-2704. Information is also available on the OPSC Home Page at <http://www.dgs.ca.gov/opsc/>.

Countywide Plans

The decision to establish Community Day Schools should be made within the larger context of the need to serve all expelled and other at-risk students in the school district and county.

Community Day Schools are an appropriate placement option for some, but not necessarily all, expelled students. They can also provide a structured and supervised environment for other students who have not been expelled but who would benefit from the preventive and rehabilitative emphases in these programs.

Each county superintendent of schools in a county that operates one or more county community schools, in conjunction with superintendents of the school districts within the county, must develop a plan for providing education services to all expelled students in that county (§48926). The required plans must, at a minimum, identify the following:

- existing educational alternatives for expelled students;
- gaps in educational services to expelled students;
- strategies for filling those service gaps; and alternative placements for students who are expelled and placed in Community Day School programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district students, as determined by their governing boards.

The first set of plans was required to be submitted to the State Superintendent of Public Instruction by June 1997. The next set of plans is not required to be submitted until June 2000. However, district and county representatives are strongly encouraged to collaborate on amending their plan annually in an effort to ensure that it is comprehensive, up-to-date, and addresses educational placement options and support services for all expelled students. District and county personnel are also encouraged to collaborate in staff training and the identification of educational materials and service providers.

Sincerely,

DELAINE EASTIN
State Superintendent of Public Instruction

DE:dsd